

From: Rob Lembree
To: Microsoft ATR
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Subject: Microsoft Settlement

This communication is pursuant to the Tunney Act period for public comment, and is authored by Robert Lembree, 29 Milk St., Nashua, NH 03064-1651, (603) 880-6768.

The proposed settlement of the anti-trust case against Microsoft by the United States Government is grossly inadequate and does little more than hand Microsoft a government sponsored marketing opportunity. Rather than punish Microsoft for its illegal activities as a monopoly, it strengthens Microsoft's already dominant market position and therefore runs directly contrary to the intention of the anti-trust finding and prosecution.

It is clear that either Microsoft itself or parties biased in Microsoft's favor were involved in the crafting of the agreement. The agreement is riddled with loopholes that not only preserve Microsoft's dominance, but also which discourage the development of alternative technologies.

A case in point is that while companies may develop alternate technologies, the APIs and access to critical file formats (such as media formats) prevent these alternate technologies from being compatible in any way with Microsoft's dominant technology. This means that Windows Media format files, which dominate the media available on the Internet because of Microsoft's monopolistic practices, remain off limits to those not using Microsoft's operating systems and/or tools. Microsoft's own licensing prohibits the development of open source tools with their software development kits, and prohibits the development of tools for operating systems other than Windows. The settlement fails to remedy in this case.

This is one of literally a hundred cases in point that I can think of, but I don't want to deluge you. The point that I want to get across is that Microsoft's dominance in the marketplace has caused a stifling effect on innovation because if Microsoft doesn't want competitive solutions, it is simple for it to make meaningful competition impossible through any number of means:

- * obfuscation in its dominant operating system ("we don't supply APIs for that")

- * exclusivity deals with content providers ("if you use only MS format files on your website, you get consideration")

* failure to support competing operating systems such as Linux or MacOS with key application (non-OS) technologies

And there are more.

Any meaningful remedy will undo some of the damaging effects of Microsoft's anti-competitive practices, such as the publication of important APIs, the removal of restriction on using Microsoft's application technologies on non-Microsoft operating systems, and so on.

regards,
robert lembree